



Health Law Alert: Minnesota Department of Health Seeking Public Input on Patient Impact and Costs Associated with Minnesota Patient Consent Requirements

October 11, 2016

The Minnesota Department of Health ("MDH") is seeking public input, and the time for submitting your response is running out. On September 16, 2016, MDH released a Request for Information ("RFI") on the patient impact and costs associated with the consent requirements under the Minnesota Health Records Act ("MHRA").

The RFI stems from conflicts between HIPAA and the MHRA. An early draft of the HIPAA Privacy Rule considered, but ultimately rejected, a requirement that patients give consent to the release of their protected health information for treatment and certain other purposes. In contrast, the MHRA requires patient consent when releasing health records for treatment, payment, or health care operations and for most other releases, with limited exceptions.

The misalignment between HIPAA and the MHRA causes challenges—and has created confusion—for both patients and providers. The RFI is an opportunity to provide comments to MDH about the challenges you face due to the consent requirements under the MHRA, including financial implications and impacts on quality of care.

If you would like to provide comments, **you must submit a response by October 17, 2016**. Patients, health care providers, payers, and related organizations are encouraged to respond. Respondents are not obligated to answer every question and can submit responses anonymously. The findings will be summarized into a report to the legislature due in February 2017 and may be used for planning and policy development.

Gray Plant Mooty has been retained by MDH to provide guidance on federal and state privacy and security requirements, as part of the Privacy, Security and Consent Management for Electronic Health Information Exchange Grant.



If you have questions about federal and state privacy and security requirements, please contact Jesse Berg at jesse.berg@lathropgpm.com (612.632.3374), Tim Johnson at tim.johnson@lathropgpm.com (612.632.3208), or Julia Reiland at julia.reiland@lathropgpm.com (612.632.3280).